

DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

REPLY TO
ATTENTION OF:

March 24, 1998

Regulatory Branch

SUBJECT: Department of the Army Permit Requirements,
Application No. 97-320-0003(0)

Ms. Linda C. Shumway
Columbia Gas Transmission
265 Industrial Park Drive
Door #7
Binghamton, New York 13904

Dear Ms. Shumway:

It has come to our attention that the Federal Energy Regulatory Commission has commenced their review your of your proposed project. This letter is to remind you that your proposed Millennium Pipeline project does fall under the jurisdiction of the Department of Army. You are advised to submit an application for Department of the Army permits as soon as possible and not to perform any work until you have received written Department of the Army authorization.

Your proposed project is located in three (3) Corps of Engineers Regulatory Districts: the Pittsburgh District, the Buffalo District, and the New York District. After a review of the information each district currently has on your project, we have decided that district shall **independently** review your proposed project and that no one district shall be designated as the lead district.

Under Section 10 of the Rivers and Harbors Act of 1899, and Section 404 of the Clean Water Act, the U.S. Army Corps of Engineers has regulatory authority over construction, excavation, or deposition of materials in, over, or under navigable waters of the United States.

Under Section 404 of the Clean Water Act, the U.S. Army Corps of Engineers regulates the discharge of dredged or fill material into waters of the United States, including freshwater wetlands, intermittent streams, perennial streams, and ponds. In addition, ephemeral streams, swales, ditches, and seeps are often determined to be waters of the United States, and therefore also regulated by Section 404 of the

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Clean Water Act. Certain types of excavation activities are defined as discharges of dredged material when they occur in waters of the United States. For instance, landclearing using mechanized equipment, ditching, channelization, pipeline installation and other types of excavation when performed in such waters, including wetlands, would likely be regulated under Section 404 of the Clean Water Act.

To help you prepare your application, I have enclosed the following:

- a. a Department of the Army permit application
- b. a list of required drawing elements
- c. guidelines for wetland delineations
- d. guidelines for conceptual wetland mitigation plans
- e. adjacent property owners list
- f. guidelines on USEPA guidelines

Prior to submitting your application, please ensure that all of the requested information is properly identified and labelled to ensure that we can readily conduct our evaluation.

If you are enclosing photographs, the photo locations should be indicated on one or more of the attached maps. Although it is not possible to predict how long it will take to complete our evaluation, a properly completed application will expedite this process. Your cooperation in this matter is appreciated.

Be advised that Federal Energy Regulatory Commission (FERC) approval of your proposed Millennium Pipeline project or the approval of any other state, federal, or local agency approval does **not** supersede Corps jurisdiction. Furthermore, Federal Energy Regulatory Commission (FERC) approval or the approval of any other state, federal, or local agency approval does **not** guarantee Corps approval of your proposed Millennium Pipeline project.

As of the date of this letter, the Buffalo District has not received an application for a Department of the Army permit. However, based upon the individual and cumulative impacts the proposed project could have on the public interest, including but not limited to conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, threatened and endangered species, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and the needs and welfare of the people, I have determined that your proposed

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Millennium Pipeline project does **not** qualify for a nationwide
permit, and when received, the proposed millennium pipeline
project application shall be reviewed as an application
for a Department of the Army Individual Permit.

The portion of your proposed project which lies within
the boundaries of the Buffalo District has been given a
processing number of 97-320-0003. Please be sure to reference
this processing number on all correspondence to the Buffalo
District. I have enclosed a map of the Buffalo District
Boundaries in the State of New York for your reference.

The portion of your proposed project which lies within
the boundaries of the Pittsburgh District has been given a
processing number of 199701186. Please be sure to reference
this processing number on all correspondence to the Pittsburgh
District.

The New York District has not yet designated a processing
number for your proposed project.

This letter supersedes my Department of the Army Permit
requirement letters dated November 3, 1997 and November 4,
1997.

A copy of this letter has been forwarded to the
Pittsburgh District Corps of Engineers, the New York District
Corps of Engineers, the United States Fish and Wildlife
Service, the United States Environmental Protection Agency,
the New York State Department of Environmental Conservation,
the Federal Energy Regulatory Commission (2 copies), and the
New York State Office of Parks, Recreation, and Historic
Preservation.

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Questions pertaining to the portion of the Millennium Pipeline project within the Pittsburgh District Regulatory Boundaries should be directed to Mr. Scott Hans at (412)395-7154.

Questions pertaining to the portion of the Millennium Pipeline project within the New York District Regulatory Boundaries should be directed to Mr. George Nieves at (212) 264-0184.

Questions pertaining to the portion of the Millennium Pipeline project within the Buffalo District Regulatory Boundaries should be directed to me at (716) 879-4131, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207-3199, or by e-mail at: Michael.G.Nepstad@usace.army.mil

Sincerely,

Michael G. Nepstad
Biologist

Enclosures